

Exhibit A

Page 1

1 IN THE CIRCUIT SUPERIOR COURT
2 STATE OF ARIZONA
3 COUNTY OF MARICOPA

4
5 CASE NO.: Cv2017-000927
6
7 (Concerning Steven Schimpf,
8 Andrew Erm and Allan Kotter)
9
10 DANNY MCMAHILL, an individual,
11 Plaintiff,
12 vs.
13 C.R. BARD, INC., et al,
14 Defendants.
15
16
17
18
19
20
21
22
23
24
25

Video Deposition of DEREK MUEHRCKE, M.D.,
taken on behalf of defendant herein, pursuant to Notice
of Taking Deposition, at 32 Avenida Menendez, St.
Augustine, Florida, on October 18, 2018, at 5:00 p.m.,
before Terry T. Hurley, Registered Professional
Reporter, and Notary Public in and for the State of
Florida at Large.

Page 2

1
2 A P P E A R A N C E S
3
4

5 JOSHUA M. MANKOFF ESQUIRE
6 Lopez McHugh, LLP
7 214 Flynn Avenue
8 Moorestown, New Jersey 08057

9
10 Attorneys for Plaintiffs

11 MATTHEW E. BROWN, ESQUIRE
12 Nelson Mullins
13 One Post Office Square
14 30th Floor
15 Boston, Massachusetts 02109

16 Attorney for Defendant C.R. Bard

17 - - -
18
19
20
21
22
23
24
25

Page 7

1 for; is that fair?

2 A Yes.

3 Q And the things that cardiologists may be called
4 upon to manage could be to assess things like potential
5 cardiac tamponade, arrhythmias, valve damage, or
6 ventricular damage; is that fair?

7 A Yes, they do assess those things.

8 Q And if in the future the cardiologist thinks
9 that the patient might require cardiac surgery then the
10 cardiologist might refer the patient to a cardiac
11 surgeon or to a cardiothoracic surgeon like you;
12 correct?

13 A Correct.

14 Q In your patient -- excuse me. Strike that.

15 In your practice have you ever treated a
16 patient with a filter strut in the heart?

17 A Yes.

18 Q How many times?

19 A Well, I've taken -- as a resident we took a
20 filter out. Probably about two months ago I had a lady
21 who had a Bard filter that perforated the ventricle,
22 caused tamponade.

23 Q When you say a Bard filter, are you taking
24 about a filter strut or the entire filter?

25 A It was -- it was a -- it was a filter strut

Page 8

1 that had perforated through the ventricle causing
2 tamponade.

3 Q What Bard filter was that?

4 A I think it was a Recovery filter.

5 Q Recovery filter.

6 A I mean, I think it was. I don't really
7 remember if we had the -- I can't remember which one it
8 was, but it was a Bard filter that had been placed at
9 our hospital before. I can't remember exactly what it
10 was. It was Bard or a G2. I can't remember, but it was
11 not a more -- a more later rendition.

12 Q How did you determine that it was a Bard
13 filter?

14 A By looking at the operative report.

15 Q Okay.

16 A It was placed at our hospital.

17 Q I'm sorry. When did you say this was?

18 A It was probably about two, three months ago.

19 She -- we were going to take her to surgery to
20 take it out, but her lung function was so terrible that
21 we couldn't take it out, so we didn't do surgery on her.
22 The pulmonologist would not even clear her for -- for
23 anesthesia. She had severe scoliosis. But she had
24 tamponade, and she was just made a DNR.

25 Q And so what happened to that patient?

Page 9

1 A She died.

2 Q What did she die of?

3 A Well, she died of the tamponade, but also of
4 lung dysfunction, but her acute demise was due to the
5 tamponade. And she was not felt to be a candidate even
6 for just a pericardial window.

7 Q How does tamponade cause death?

8 A The heart -- the sac around the heart -- the
9 pericardium is a sac which is lubricated with fluid to
10 allow the heart to -- to beat without friction, and it's
11 a rigid sac, and if you have acute deposition of fluid
12 around the heart it will restrict the heart and prevent
13 it from filling. When it can't fill the heart can't
14 eject blood because it can't fill, and also there's a
15 backing up of -- of fluid so that there's a restriction
16 of blood back to the heart.

17 Q In order for that to happen does there need to
18 be some type of pericardial effusion?

19 A Well, you can have -- for acute tamponade
20 that's typically the way it occurs, but you can have a
21 constrictive pericarditis from fluid, which is a fluid,
22 or scarring, or -- or inflammation from a viral
23 infection which can cause a chronic scarring, which can
24 cause a similar situation where you have constriction of
25 the ability of the heart to relax and to fill. It's

Page 10

1 called restrictive pericarditis.

2 Q Which did she have?

3 A She had an acute tamponade.

4 Q She had acute?

5 A Yeah.

6 Q Did she have evidence of pericardial effusion?

7 A Uh-huh. Hemopericardium.

8 Q And what was the cause of that?

9 A The hemopericardium I assume was from the strut
10 sticking out of her right ventricle.

11 Q Was there any determination that that was in
12 fact what caused the tamponade?

13 A There's echocardiographic evidence of tamponade
14 physiology, yeah. And clinically that's what she had.
15 Tamponade is more of a clinical diagnosis, but with the
16 echocardiographic findings of early right ventricular
17 and right atrial collapse it's consistent with
18 tamponade.

19 Q Yeah. I mean --

20 A And she was a sick lady. Don't get me wrong.
21 She was -- she was too sick to have anesthesia. The
22 pulmonologist wouldn't clear her.

23 Q I mean, what I'm trying to get at is, was there
24 a determination as to what the cause of the tamponade
25 was?

Page 11

1 A Yeah. I mean, I think the cardiologist and I
2 felt that it was due to the strut fracture -- the
3 fractured strut sticking out of her right ventricle with
4 blood around it.

5 Q Was there any medical determination about what
6 her cause of death was?

7 A Well --

8 MR. MANKOFF: Object to form.

9 A -- I think her cause of death was the tamponade
10 and severe COPD.

11 Q Was there any autopsy performed?

12 A No, there's no autopsy performed.

13 Q So as far as someone actually going in there
14 and finding the precise mechanism of death for this
15 patient, that didn't occur, to your knowledge?

16 MR. MANKOFF: Object to form.

17 A Well, I think the cause of death was tamponade
18 on top of a patient who has severely limited pulmonary
19 function, who had severe kyphoscoliosis, was
20 debilitated.

21 I can't remember all the details why the filter
22 was put in, but she was pretty ill. I mean, it's a
23 pretty straightforward operation to do a pericardial
24 window and take a strut out, and I was keen to do it,
25 but they thought she was not a candidate for it. So she

Page 12

1 had multiple medical problems, but the acute demise was
2 due to the tamponade. But she was made DNR by her
3 family who thought it was in her best interest.
4 Apparently she had suffered a lot before.

5 I had never taken care of her before, but that
6 was the story, as I recall it.

7 Q And was it a respiratory distress issue that
8 resulted in her death or --

9 A She had hypotension and respiratory distress.

10 Q Was there an autopsy performed?

11 A No, there was no autopsy. Unfortunately,
12 autopsies are not really performed very much these days.

13 Q Other than this patient that you referred to
14 that you saw two to three months ago, have you ever
15 treated any other patient with a filter strut in the
16 heart?

17 A Gosh, not that I can recall. I cannot -- I
18 cannot recall taking out a filter strut out of a right
19 ventricle. Not that I can recall. Just an entire
20 Greenfield filter.

21 Q And that was during your residency?

22 A Yes.

23 Q For the patient that you treated two to three
24 months ago who had a filter strut in the heart, you said
25 that you wanted to attempt a cardiac window to retrieve